

# **EXHIBIT 19**

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**From:** Allen, Robert (CC)  
**Sent:** Wednesday, May 12, 2021 9:09 AM  
**To:** 'Frances A. Smith'; Eric Soderlund  
**Cc:** Judith Ross; Charles Cowden; Debra.Dandeneau@bakermckenzie.com; Michael Coulombe; Clubok, Andrew (DC); Tomkowiak, Sarah (DC); George, Katie (CH); #C-M UBS HIGHLAND - LW TEAM  
**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Frances and Eric,

Your clients failed to comply with the document subpoenas, and you have stated in your below email that they do not intend to appear for their noticed depositions. As a result, we are going to move to compel them to comply with the document and deposition subpoenas. And, in light of FRCP 37(a)(5) (incorporated into adversary proceedings by BK Rule 7037), we will seek fees and costs. We have done everything possible to try to work this out, but all of your clients seem to have made the collective decision to thwart discovery. As you know, they have been aware that we sought their documents and depositions since at least April 19 (and likely much earlier than that). Let us know today if you will oppose this motion.

Best,

**Robert E. Allen**

**LATHAM & WATKINS LLP**

10250 Constellation Blvd. Suite 1100 | Los Angeles, CA 90067  
D: +1.424.653.5563

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**From:** Frances A. Smith <Frances.Smith@judithwross.com>  
**Sent:** Tuesday, May 11, 2021 11:05 AM  
**To:** Allen, Robert (CC) <Robert.Allen@lw.com>; Eric Soderlund <Eric.Soderlund@judithwross.com>  
**Cc:** Judith Ross <Judith.Ross@judithwross.com>; Charles Cowden <charles.cowden@judithwross.com>; Debra.Dandeneau@bakermckenzie.com; Michael Coulombe <michael.coulombe@judithwross.com>; Clubok, Andrew (DC) <Andrew.Clubok@lw.com>; Tomkowiak, Sarah (DC) <Sarah.Tomkowiak@lw.com>; George, Katie (CH) <kathryn.george@lw.com>; #C-M UBS HIGHLAND - LW TEAM <UBSHIGHLAND.LWTEAM@lw.com>  
**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Robert,

We are fine with your additional change. Please see the attached executed agreement. Please execute and return with a copy of the Complaint.

Best regards,

Frances

Frances A. Smith, Shareholder  
Ross & Smith, PC

Plaza of the Americas  
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[Frances.smith@judithwross.com](mailto:Frances.smith@judithwross.com)  
[www.judithwross.com](http://www.judithwross.com)



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**From:** [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>  
**Sent:** Monday, May 10, 2021 8:42 PM  
**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>  
**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>;  
[Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>;  
[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)  
**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Frances,

Your changes to the confidentiality agreement are fine with us. Here is a clean of the agreement and a redline with one additional change. If this is acceptable, please sign and send back and we will send you the Complaint pursuant to the terms of that agreement.

As for the subpoenas, we will not agree to an undefined extension to the document or deposition subpoena dates. Your clients and/or their counsel have now had these subpoenas for over a month, and any delay in receiving the Complaint has been of your own making, as we first offered to share it with you as early as our initial letter on April 22, an offer we reiterated again April 29. We also informed you on May 5 that we would reissue the subpoenas for dates this week and next but would be willing to discuss mutually agreeable dates if your clients had legitimate reasons that a particular noticed date does not work, which again you did not respond to. As a result, we noticed the subpoenas and will expect

your clients to comply with those subpoenas absent a court order or you agreeing to an otherwise mutually agreed date in the near future for the documents and depositions.

Best,

**Robert E. Allen**

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**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>  
**Sent:** Monday, May 10, 2021 3:55 PM  
**To:** Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>  
**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>;  
[Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; #C-M UBS HIGHLAND - LW TEAM <[UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)>  
**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Dear Robert,

Thank you for your email of Thursday evening. We have reviewed the Confidentiality Agreement and identified a few minor issues. Please see the attached proposed revisions. We have copied our clients and are still awaiting their input.

We request that you pull down or agree to an extension of your request for document production and all deposition notices (sent Saturday evening by separate email) until we have had an opportunity to review the Complaint. We will not be producing documents tomorrow. We have agreed that our Client will not discuss the defined Highly Confidential Material, which includes the Complaint, with anyone other than their counsel, which means that they cannot discuss the Highly Confidential Material amongst themselves. Therefore, we have to discuss the document requests with each one of our Clients separately. Given that Mr. Sevilla is out of the country, and Ms. Lucas is on disability, we will not be able to accomplish that on a short timeline. Again, we don't understand why this discovery is an emergency. To the extent that we have no objections to the requests after we review the Complaint, we will agree to produce responsive documents within 10 days after receipt of the Complaint. We reserve all rights to object once we review the Complaint.

Frances

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Ross & Smith, PC  
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**From:** [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>  
**Sent:** Thursday, May 6, 2021 9:05 PM  
**To:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>  
**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>;  
[Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>;

[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Eric,

Attached please find the draft confidentiality agreement for your review.

Please let us know if you have any questions.

Best,

**Robert E. Allen**

**LATHAM & WATKINS LLP**

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D: +1.424.653.5563

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**From:** Allen, Robert (CC)

**Sent:** Wednesday, May 5, 2021 7:43 PM

**To:** 'Eric Soderlund' <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[Kathryn.George@lw.com](mailto:Kathryn.George@lw.com)>; #C-M UBS HIGHLAND - LW TEAM <[UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Eric,

Thank you for your reply. We will prepare and circulate tomorrow a draft confidentiality agreement for your review that reflects your and your clients' agreement to keep the contents of and allegations in the complaint confidential. Upon receipt of your signature, we will send you the complaint. The same goes for Baker & McKenzie, please confirm that you will coordinate getting their signature as well.

We appreciate that you will promptly inform us whether your clients intend to comply with the subpoenas or whether they still intend to move to quash, but time remains of the essence, and it took you almost a full week to respond to our April 29 offer to share the complaint. Thus, in the interim, we will re-issue the subpoenas for production and deposition dates for the end of next week and the week of May 17, by which time your clients will have had ample time to evaluate the complaint, respond to the subpoenas and prepare for any deposition. If Ms. Lucas requires a reasonable accommodation due to her maternity leave, we are happy to discuss that with you. With regard to Messrs. Ellington, Leventon, DiOrio, and Sevilla, we expect that they will comply with their obligations pursuant to the subpoenas, but if there is a legitimate reason that a particular noticed date does not work (planned travel, personal appointments, etc.) we are willing to discuss a mutually agreeable alternative. We understand that you will need to speak with each of your clients in turn, but please keep us informed, on a rolling basis, as you become aware of each client's intention to comply with or challenge the subpoenas.

Best,

**Robert E. Allen**

**LATHAM & WATKINS LLP**

10250 Constellation Blvd. Suite 1100 | Los Angeles, CA 90067

D: +1.424.653.5563

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**From:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Sent:** Wednesday, May 5, 2021 10:47 AM

**To:** Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>; Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Debra.Dandeneau@bakermckenzie.com; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; #C-M UBS HIGHLAND - LW TEAM <[UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Robert,

We agree that if you share the complaint with us, we will not share or discuss or convey directly or indirectly the substance or nature of the contents of or allegations in the complaint with anyone else, besides each other and our clients. For the avoidance of doubt, we will counsel our clients not to talk to each other or anyone but their counsel (i.e., Baker & McKenzie and Ross & Smith) concerning its contents.

We also will endeavor to promptly inform you whether our clients intend to comply with the subpoenas, produce any responsive documents, and appear for depositions, or whether they still intend to move to quash. We cannot agree to an arbitrary 3-business-day response period, however, as we have multiple clients (and cannot talk to them all at once per your request), at least one of whom has vacation plans this month while another is on maternity leave. Nevertheless, we will not unduly delay communicating with you about our intentions concerning UBS's discovery requests and deposition notices. After we have an opportunity to review the unsealed Complaint, we reserve the right to request the additional sealed pleadings.

Best regards,

**Eric Soderlund**

**Ross & Smith, PC**

700 N. Pearl Street Suite 1610

Dallas, TX 75201

Mobile: 214-215-3492

Fax: 214-377-9409

Email: [eric.soderlund@judithwross.com](mailto:eric.soderlund@judithwross.com)

Web: [www.judithwross.com](http://www.judithwross.com)

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**From:** [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>

**Sent:** Tuesday, May 4, 2021 12:32 PM

**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Hi Frances,

Following up on our offer to share the adversary complaint. Please let us know whether your clients will agree to these terms.

Best,

**Robert E. Allen**

**LATHAM & WATKINS LLP**

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D: +1.424.653.5563

---

**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Sent:** Thursday, April 29, 2021 4:12 PM

**To:** Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; #C-M UBS HIGHLAND - LW TEAM <[UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Robert,

Thank you for your email. We will discuss and get back to you asap.

Frances

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**From:** [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>

**Sent:** Thursday, April 29, 2021 5:52 PM

**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com); [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [UBSHIGHLAND.LWTEAM@lw.com](mailto:UBSHIGHLAND.LWTEAM@lw.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Hi Frances,

We are writing in regards to your prior request to review the adversary complaint. In its order authorizing UBS to effect alternative service of its subpoenas on Mr. Dondero (attached), the Court ordered UBS to share the sealed complaint with Mr. Dondero and his counsel, but restricted Mr. Dondero and his counsel "from sharing or discussing or conveying directly or indirectly the substance or nature of the contents of or allegations in the Complaint with anyone else, other than amongst themselves (i.e., between James Dondero and his counsel at Bonds Ellis)."

We are willing to share the complaint with you and your clients if you will all similarly agree that you will not share or discuss or convey directly or indirectly the substance or nature of the contents of or allegations in the complaint with anyone else. For the avoidance of doubt, while each of your clients would be free to discuss the complaint with you, as counsel, they would be precluded from discussing the complaint amongst each other. In exchange, we ask that you promptly inform us, within 3 business days of receiving the complaint, whether your clients intend to comply with the subpoenas, produce any responsive documents, and work with us to schedule mutually acceptable dates for the depositions, or whether they still intend to move to quash.

Best,

**Robert E. Allen**

**LATHAM & WATKINS LLP**

10250 Constellation Blvd. Suite 1100 | Los Angeles, CA 90067  
D: +1.424.653.5563

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**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Sent:** Monday, April 26, 2021 2:56 PM

**To:** Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>; Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>; [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Allen, Robert (CC) <[Robert.Allen@lw.com](mailto:Robert.Allen@lw.com)>; Attarwala, Asif (CH) <[Asif.Attarwala@lw.com](mailto:Asif.Attarwala@lw.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Me and Eric Soderlund.

Frances

---

**From:** [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>

**Sent:** Monday, April 26, 2021 4:54 PM

**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; [Robert.Allen@lw.com](mailto:Robert.Allen@lw.com); [Asif.Attarwala@lw.com](mailto:Asif.Attarwala@lw.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

We can do 1:30 CT. Please let us know who to include on the invite.

**Sarah A. Tomkowiak**



**LATHAM & WATKINS LLP**

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**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Date:** Monday, Apr 26, 2021, 2:44 PM

**To:** George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>, Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>, Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>, Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>, [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com) <[martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com)>, [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com) <[candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)>, Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>, Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>, Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>, [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com) <[Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com)>, Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

I apologize. I have a conflict at 2:30 PM tomorrow that will last about an hour, but I can to 1:30 PM or 3:30 PM CT. Please let me know if either of those works for you.

Frances

---

**From:** Frances A. Smith

**Sent:** Monday, April 26, 2021 4:13 PM

**To:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

Thank you for your response. Are you saying that the only parties attending the depositions will be the Debtor and UBS representatives and their respective counsel? No other non-parties, i.e. the UCC, will be attending the various non-party depositions? Please clarify/confirm.

Also, to be clear, we are willing to agree to maintain confidentiality, but not subject to certain of the conditions that you are seeking to impose, which are entirely unrelated to confidentiality issues. But we can discuss those tomorrow. We are available at 2:30 PM CT as you suggested.

Best regards,

Frances

---

**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>

**Sent:** Monday, April 26, 2021 3:53 PM

**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)  
**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; [Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com); Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Frances,

We will not be allowing non-party deponents or their counsel into the deposition tomorrow. During the deposition, we will be discussing highly confidential information underlying the adversary proceeding, which this Court found just cause to seal in granting UBS's motion to seal the adversary proceeding complaint and TRO motion.

As noted in Sarah's letter, we are willing to share the complaint with you pursuant to certain conditions, which we look forward to discussing with you tomorrow afternoon.

Best,  
Katie

---

**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Sent:** Monday, April 26, 2021 2:19 PM

**To:** Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>; Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>; [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>

**Cc:** Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>; Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Dandeneau, Debra A. <[Debra.Dandeneau@bakermckenzie.com](mailto:Debra.Dandeneau@bakermckenzie.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

It appears that there is a deposition of Cliff Stoops scheduled for tomorrow morning at 9:00 AM. We would like to attend to listen in only. We will not be asking any questions. Can you please see that we are copied on the deposition information?

Best regards,

Frances

Frances A. Smith, Shareholder  
Ross & Smith, PC  
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Dallas, TX 75201  
T 214.377.7879 | D 214.593.4976 | F 214.377.9409  
[Frances.smith@judithwross.com](mailto:Frances.smith@judithwross.com)

[www.judithwross.com](http://www.judithwross.com)



---

**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>

**Sent:** Friday, April 23, 2021 5:13 PM

**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)

**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Frances, confirmed, all of your clients' depositions are off for Tuesday.

We will find a time that works for our side to talk and get back to you.

Best,  
Katie

---

**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Date:** Friday, Apr 23, 2021, 4:58 PM

**To:** George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>, Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>

**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>, Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>, Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>, Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>, Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>, [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com) <[martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com)>, [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com) <[candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)>, Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>, Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

As long as you confirm by return email that **all** the Depositions are off for Tuesday, we will hold off on filing the Motion to Quash. We can meet on Tuesday afternoon if that works.

Frances

Frances A. Smith, Shareholder  
Ross & Smith, PC  
Plaza of the Americas  
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Dallas, TX 75201  
T 214.377.7879 | D 214.593.4976 | F 214.377.9409  
[Frances.smith@judithwross.com](mailto:Frances.smith@judithwross.com)  
[www.judithwross.com](http://www.judithwross.com)



**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>  
**Sent:** Friday, April 23, 2021 4:53 PM  
**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)  
**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>;  
[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com);  
[candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>; Judith Ross

<[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Frances,

Can you clarify the basis for your motion to quash? I was under the impression that we would meet and confer first (and we are willing to do so regarding the time/date/scope of the subpoenas as we stated in our letter). In fact, we held off on noticing the depositions with the Court for next Tuesday assuming we would meet and confer on the details in good faith first.

Unfortunately we are not available next Tuesday morning. Please let us know other times early next week that work for you.

Best,  
Katie

---

**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>

**Date:** Friday, Apr 23, 2021, 3:59 PM

**To:** George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>, Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>

**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>, Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>, Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>, Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>, Posin, Kimberly (LA)

<[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>, [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com) <[martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com)>, [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com) <[candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)>, Charles Cowden <[charles.cowden@judithwross.com](mailto:charles.cowden@judithwross.com)>, Judith Ross <[Judith.Ross@judithwross.com](mailto:Judith.Ross@judithwross.com)>

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

We have reviewed your letter.

We will be filing a Motion to Quash the Subpoenas on behalf of our clients this afternoon. Please let me know if UBS will be opposed to the motion. In light of the Motion to Quash, we will not be presenting our clients for depositions on Tuesday.

Are you available Tuesday morning at 9:30 CT to confer regarding your letters and your proposed discovery? If so, I will send a Zoom invite.

Best regards,

Frances

---

**From:** Frances A. Smith

**Sent:** Thursday, April 22, 2021 2:26 PM

**To:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com); [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)

**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; [Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Katie,

Thank you for your response. I have a hearing this afternoon at 2:30 PM in another matter that is likely going to last the rest of the afternoon so this afternoon will not work. But I will review the letter and respond with a proposed time.

Best regards,

Frances

Frances A. Smith, Shareholder  
Ross & Smith, PC  
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Dallas, TX 75201  
T 214.377.7879 | D 214.593.4976 | F 214.377.9409  
[Frances.smith@judithwross.com](mailto:Frances.smith@judithwross.com)  
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---

**From:** [kathryn.george@lw.com](mailto:kathryn.george@lw.com) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>  
**Sent:** Thursday, April 22, 2021 1:37 PM  
**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>; [Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)  
**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>;  
[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com); [Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com); [Kim.posin@lw.com](mailto:Kim.posin@lw.com); [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com);  
[candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)

**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Counsel,

Please see the attached correspondence. As noted, we are available this afternoon to have a call.

Best,  
Katie

---

**From:** Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>  
**Sent:** Wednesday, April 21, 2021 3:27 PM  
**To:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>  
**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>; Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>; Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>; [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com); George, Katie (CH) <[kathryn.george@lw.com](mailto:kathryn.george@lw.com)>  
**Subject:** RE: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Counsel:

I am confirming receipt of your correspondence from today and yesterday regarding Adversary Proceeding No. 21-03020-sgj and the Notices of Subpoena and Deposition.

We will respond by tomorrow, and we appreciate your offer to meet and confer. We will include our availability for a call along with our response.

Please include my colleague Katie George, copied here, on future correspondence relating to this matter.

Best,

**Sarah A. Tomkowiak**

**LATHAM & WATKINS LLP**  
555 Eleventh Street, NW | Suite 1000 | Washington, D.C. 20004-1304  
D: +1.202.637.2335 | M: +1.217.417.3312

---

**From:** Frances A. Smith <[Frances.Smith@judithwross.com](mailto:Frances.Smith@judithwross.com)>  
**Sent:** Wednesday, April 21, 2021 4:02 PM  
**To:** Clubok, Andrew (DC) <[Andrew.Clubok@lw.com](mailto:Andrew.Clubok@lw.com)>; Tomkowiak, Sarah (DC) <[Sarah.Tomkowiak@lw.com](mailto:Sarah.Tomkowiak@lw.com)>; Bjork, Jeff (LA) <[Jeff.Bjork@lw.com](mailto:Jeff.Bjork@lw.com)>; Posin, Kimberly (LA) <[Kim.posin@lw.com](mailto:Kim.posin@lw.com)>; [martin.sosland@butlersnow.com](mailto:martin.sosland@butlersnow.com); [candice.carson@butlersnow.com](mailto:candice.carson@butlersnow.com)  
**Cc:** Eric Soderlund <[Eric.Soderlund@judithwross.com](mailto:Eric.Soderlund@judithwross.com)>; Michael Coulombe <[michael.coulombe@judithwross.com](mailto:michael.coulombe@judithwross.com)>  
**Subject:** FW: Adv. Proc. No. 21-03020-sgj; UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.

Dear Counsel,

Please see the attached correspondence regarding Adversary Proceeding No. 21-03020-sgj styled *UBS Securities LLC and UBS AG London Branch v. Highland Capital Management, L.P.*, et al.

Also, following up on the email from Katie Zinecker at Baker McKenzie dated April 8, 2021, as stated therein, we are willing in the spirit of cooperation, to discuss the Notices of Subpoena and Notices of Deposition with you.

I look forward to your response and am happy to meet and confer regarding the Document Requests and Deposition Notices referenced therein.

Best regards,

Frances

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700 N. Pearl Street, Ste. 1610  
Dallas, TX 75201  
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[Frances.smith@judithwross.com](mailto:Frances.smith@judithwross.com)  
[www.judithwross.com](http://www.judithwross.com)



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